

REMARKS

This is a full and timely response to the final Office Action mailed May 19, 2004.

Upon entry of the amendments in this response, claims 27, 29, 31-35, and 38 - 45 are pending. In particular, Applicants have amended claims 27, 29, 35, and 38 and have canceled claims 28, 30, 36, and 37 without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Indication of Allowable Subject Matter

Claims 43 - 45

Applicants appreciate the Examiner's indication that that claims 43 - 45 are allowed.

Claims 29 - 34, 37, 39 and 41 - 42

The Office Action indicates that claims 29 - 34, 37, 39 and 41 - 42 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

All of the limitations of claim 30 (including intervening dependent claim 28) have been incorporated into independent claim 27, from which it depended. Consequently, Applicants submit that amended claim 27 is in condition for allowance. Additionally, dependent claims 29 and 31-34 are allowable for at least the reason that they depend from allowable claim 27.

Similarly, all of the limitations of claim 37 (including intervening dependent claim 36) have been incorporated into independent claim 35, from which it depended. Consequently, Applicants submit that amended claim 35 is in condition for allowance. Additionally, dependent claims 38 – 42 are allowable for at least the reason that they depend from allowable claim 35.

In that it is believed that every rejection has been overcome, it is submitted that each of the claims that remains in the case is presently in condition for allowance.

II. Improper Final Rejection

The Office Action was made FINAL prematurely. Under present practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by the Applicants' amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. 1.97(c). MPEP 706.07(a).

Applicants submit that claims 27 - 45 were not amended in the Applicants' response entitled "Request for Reconsideration (After Final Action)" filed September 30, 2003. Additionally, Applicants have not set forth a new information disclosure statement. However, the present Office Action, which is made final, sets forth a new ground of rejection using art which has not been previously considered.

Accordingly, Applicants submit that this new ground of rejection is neither necessitated by an amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. 1.97(c).

MPEP 706.07(a). For at least these reasons, the Applicants respectfully submit that the finality of the Office Action is improper, and respectfully request the withdrawal of the finality of the Office Action.

III. Objection to the Specification

The Office Action indicates that the specification is objected to as allegedly failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Office Action alleges that there is "no figure or anything in the specification which describes or shows the claimed elements of independent claim 27." (Office Action, pg. 2).

Applicants submit that the elements of the embodiment of claim 27 are shown and described in the specification and figures. For example, Applicant directs attention to the following portion of text found in the "Summary of the Invention" (Section V) of Applicant's Appeal Brief filed February 9, 2004:

The present invention is directed to a lamp holder assembly (FIGs. 1 and 28 – 30, 108) for a track lighting system (FIG. 1, 100). The lamp holder assembly includes a base (FIG. 30, 818) having a first lamp channel (FIG. 30, 820) for holding a lamp. The lamp holder assembly also includes electrically conductive contact members (FIG. 30, 816) and a retention piece (FIG. 30, 814). The electrically conductive contact members have a first portion (FIG. 30, contact fingers 868) and a second portion (FIG. 30, tongue 860). The first portion of the electrically conductive contact members are arranged in the first lamp channel for contacting the lamp. The second portion of the electrically conductive contact members are for contacting an electrical conductor (FIG. 2A, 125) in the track frame (FIG. 2A, 112). The lamp holder assembly further includes a retention piece (FIG. 30, 814) for securing the electrically conductive contact members within the base.

The portion cited above includes language that tracks the features of independent claim 27, with reference to each of the features shown in a corresponding figure. Although

many of the features may be found in other figures, FIG. 30 is particularly helpful because of the exploded view.

Applicants also direct attention to portions of the detailed description generally found at pg. 17, line 9 - pg. 18, line 16 which references figure 30 in more detail. For example, the detailed description recites that "the *holder 810* includes a body 818, a *shaped channel 820*, an open channel 822, a stem 824, a stop disk 826, and a rotation disk 828. In the *wedge base lamp holder 108* with one reflector 812, the shaped channel 820 extends through one end 832 of the body 818." (*Emphasis added*, pg. 18, lines 9-12). Furthermore, the detailed description recites that "each *contact clip 816* includes a tongue 860, a riser 862, contact fingers 868, and a coupling wall 870. The contact fingers 868 include angled portions 872 at the ends with a section of the contact finger 868 bent downward and another section of the contact finger 868 bent upward." Additionally, the detailed description discloses that "*retention plug 814* is inserted down into the holder 810 with the insert arm 850 facing the channel termination 834 and the retention arm 852 facing the open end 832." (*Emphasis added*, pg. 18, lines 12-13).

Accordingly, Applicants submit that the elements of claim 27 are shown and described in sufficient detail in the specification and figures. Furthermore, the terms used in the specification provide antecedent basis for the claimed subject matter.

Accordingly, no amendment is believed to be necessary. However, should an ensuing Office Action require amendments to the specification to overcome the alleged objection, Applicants request more specific instructions as to which portions of the claim are alleged to not have proper antecedent.

IV. Rejection of Claims 27 – 28, 35 – 36, 38 and 40 Under §102

The Office Action rejects claims 27 – 28, 35 – 36, 38 and 40 under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 6,170,967 to Usher *et al.* (“Usher”).

Claims 27, 35, 38, and 40

In that independent claims 27 and 35 have been amended to incorporate the subject matter of allowable claims 30 and 37, respectively, Applicants submit that the rejection to claims 27 and 35 has been overcome. Additionally, claims 38 and 40 are believed to be allowable for at least the reason that they depend from claim 35, which Applicants believe to be allowable.

Claims 28 and 36

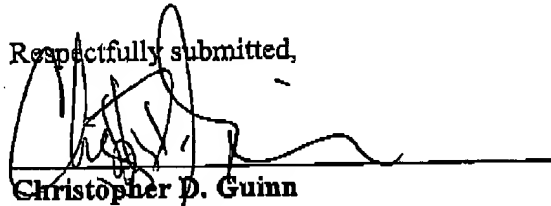
In that claims 28 and 36 have been canceled, the §102 rejection of claims 28 and 36 is believed to be moot.

CONCLUSION

The Applicants respectfully submit that all claims are now in condition for allowance, and request that the Examiner pass this case to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this response. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,



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